

Mitschele, Becky

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From: Peter Hughes <[PeterH@redbarnag.com](mailto:PeterH@redbarnag.com)>  
Sent: Thursday, November 20, 2014 1:35 PM  
To: Smith, DavidW; Mitschele, Becky  
Cc: [alec.wong@doh.hawaii.gov](mailto:alec.wong@doh.hawaii.gov); Lum, Darryl C; [sina.pruder@doh.hawaii.gov](mailto:sina.pruder@doh.hawaii.gov)  
Subject: RE: Hawaii Dairy Farms

Mr. Smith,  
Understood, thank you for your time.  
Peter

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**From:** Smith, DavidW [<mailto:Smith.DavidW@epa.gov>]  
**Sent:** Thursday, November 20, 2014 4:33 PM  
**To:** Peter Hughes; Mitschele, Becky  
**Cc:** [alec.wong@doh.hawaii.gov](mailto:alec.wong@doh.hawaii.gov); Lum, Darryl C; [sina.pruder@doh.hawaii.gov](mailto:sina.pruder@doh.hawaii.gov)  
**Subject:** RE: Hawaii Dairy Farms

Mr. Hughes- You need to take this up with Hawaii Department of Health. We will coordinate with HDOH as necessary.

David Smith  
Manager  
NPDES Permits Section (WTR-2-3)  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94602  
(415) 972-3464 (office)  
(415) 972-947-3545 (fax)

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**From:** Peter Hughes [<mailto:PeterH@redbarnag.com>]  
**Sent:** Thursday, November 20, 2014 1:22 PM  
**To:** Mitschele, Becky  
**Cc:** Smith, DavidW  
**Subject:** RE: Hawaii Dairy Farms

Becky,  
I was forwarded the response from Dave to Group 70. My understanding is that EPA will not make any formal comment until we applied for an NPDES CAFO permit through DOH. The Comprehensive Nutrient Management Plan phase 1 was for the permitting associated with AFO animal numbers less than the Federal definition of a Large CAFO. Hawaii Dairy Farms was looking for some type of formal approval from DOH but has yet to receive anything except for the documents first forwarded to you that included an approved building permit and a "no-objection" letter from DOH. Is there any further permit approval that you believe we would need for Phase 1 of this dairy expansion plan? Much appreciated.  
Peter

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**From:** Mitschele, Becky [<mailto:Mitschele.Becky@epa.gov>]  
**Sent:** Tuesday, June 10, 2014 7:44 PM

**To:** Peter Hughes  
**Subject:** RE: Hawaii Dairy Farms

Aloha Peter!

Thanks for reaching out. I too find that speaking to all relevant parties early in the process tends to work out best for everyone.

Hawaii is authorized to implement the NPDES permitting program, including CAFOs, but we do provide assistance and guidance to the states as they draft new permits. I don't think that Hawaii has any permitted CAFOs to date.

At this point, we most likely will work to support DOH and provide technical assistance. I will touch base with Sina.

Thanks for keeping me in the loop.

Becky Mitschele

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**From:** Peter Hughes [<mailto:PeterH@redbarnag.com>]  
**Sent:** Tuesday, June 10, 2014 2:08 PM  
**To:** Mitschele, Becky  
**Subject:** RE: Hawaii Dairy Farms

Becky,  
I believe that Hawaii Dairy Farms has come to the conclusion that a CAFO permit is the right permitting path to follow. Sina from DOH is currently on vacation and will not be returning until the 18<sup>th</sup> of June. Would you be assisting DOH with the review of this permit? I'm not sure if Hawaii differentiates CAFO's under the General Permit or if they will require coverage under an Individual Permit. Have you been involved with other CAFO permits in Hawaii, come to think of it are there any other CAFO's in Hawaii?  
Currently we have a Waste Management Plan and CNMP in review by DOH and NRCS. That plan is for phase 1, 699 dairy cows. Even though this is a pasture based system we know that confinement counts for time in the milking parlor. Phase II is for 1800 – 2000 milk cows at full build out. The two stage manure system is designed to satisfy Phase II but will be constructed in Phase I. I thought it would be most prudent to get the operation up and going before they just started flying a bunch of cows over from the mainland. Would it be helpful to see information about the site? I have found that starting off on the right foot with the regulatory community is the best way of doing business. Hope all is well and I will talk to you soon.  
Peter

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**From:** Mitschele, Becky [<mailto:Mitschele.Becky@epa.gov>]  
**Sent:** Wednesday, June 04, 2014 7:40 PM  
**To:** Peter Hughes  
**Subject:** RE: Hawaii Dairy Farms

Hi Peter,

Thanks for following up. With regards the definition of AFO and a CAFO, EPA explains it best in Chapter 2 of the Technical Manual for CAFOs.

Related to your question below, I would need to know more information about the 1,000 head of other cows. Unfortunately, it is not as straightforward as I would like it to be. As explained in the guidance:

“If an animal is confined for any portion of a day, it is considered to be on the facility for a full day. For example, dairy cows that are brought in from pasture for less than an hour to be milked are counted as being confined (i.e., on the lot or facility) for the day.”

“In addition, the same animals are not required to remain on the lot for 45 days or more for the operation to be defined as an AFO. Rather, the first part of the regulatory definition is met if some animals are fed or maintained on the lot or facility for 45 days out of any 12-month period. The 45 days do not have to be consecutive, and the 12-month period does not have to correspond to the calendar year.”

EPA also provides examples. I am specifically thinking about example D, E, and F. Example D is an AFO/CAFO (and E and F are not) and the text from the guidance is listed below:

A beef cattle operation maintains the herd on pastures from March 15 through November 15.

From November 16 through March 14, the herd is moved to a fenced field where crops were grown during the spring and summer. During the winter, while the animals are confined to the field, the animals eat all the post-harvest residue and other vegetation that remained in the field after the crops were harvested. Additional feed is also brought to the field to sustain the herd throughout the winter.

Answer: The operation meets the AFO definition. The animals are confined and fed for more than 45 days in a 12-month period (November through March). Although the confinement area is used for crop production during times when the animals are grazing on pasture, the vegetation is not sustained during the period when the animals are confined there.

See [http://www.epa.gov/npdes/pubs/cafo\\_permitmanual\\_chapter2.pdf](http://www.epa.gov/npdes/pubs/cafo_permitmanual_chapter2.pdf). Since CAFO operations (and EPA's regulations) can be complex, let me know if you have additional questions.

Thanks,  
Becky Mitschele

On detail to R9 NPDES Permits Office  
(415) 972 - 3492

U.S. EPA, Office of Wastewater Management  
(202) 564 - 6418

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**From:** Peter Hughes [<mailto:PeterH@redbarnag.com>]  
**Sent:** Tuesday, June 03, 2014 1:27 PM  
**To:** Mitschele, Becky  
**Subject:** Re: Hawaii Dairy Farms

Becky,  
It has been some time since I last sent you an e-mail with regards to the proposed "Hawaii Dairy Farm". I have been on the farm the last 10 days conducting a full topographic survey of the entire site. We want to make sure we have all of the existing features mapped prior to further planning.  
The team has compiled a Waste Management Plan and sent it to DOH for review, Sina has been great to work with. Included in this WMP is the Comprehensive Nutrient Management that has been written for less than 700

mature milk cows for phase I of the project. We have been working with Adam Reed of HI NRCS for process flow and standards and specifications.

The plan is to get the facility up and running before applying for a CAFO permit, not sure if we will ever get to those numbers or not, that is still a question for the farm management team.

The way that I interpret the CAFO regulations is that the site could have less than 700 milk cows **and** under 1000 head of livestock (heifers and calves) and still be considered an Animal Feeding Operation (AFO). This being under the presumption that manure would not have any direct access through a manmade conveyance or ditch to the stream. Am I thinking about this correctly? Thanks and maybe we could also catch up on a conference call when it works in your schedule.

Peter

Please forgive the typos - sent from my iPhone

On Mar 26, 2014, at 2:55 PM, "Mitschele, Becky" <[Mitschele.Becky@epa.gov](mailto:Mitschele.Becky@epa.gov)> wrote:

Ok. I will work on Friday to set something up as I am working from an alternative work location today and at an offsite meeting tomorrow.

Sorry to miss the meeting/trip tomorrow. Region 3 sponsored events are always great! There is a lot of great partners in that Region.

Thx,

Becky

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**From:** Peter Hughes <[PeterH@redbarnag.com](mailto:PeterH@redbarnag.com)>

**Sent:** Wednesday, March 26, 2014 3:39 PM

**To:** Mitschele, Becky

**Subject:** RE: Hawaii Dairy Farms

Becky,

Thanks for the quick reply, I have all day Wednesday April 2<sup>nd</sup> open in my schedule. I understand the challenges associated with the time difference and can accommodate my schedule accordingly (I don't mind speaking any time after 5:00 EST). I can supply a call in number if we need to conference others in, you decide the time that works best for your schedule. Too bad we won't be able to catch up in person tomorrow, it always amazes me what a small world agriculture can be! Thanks again and I look forward to our call next Wednesday.

Peter

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**From:** Mitschele, Becky [<mailto:Mitschele.Becky@epa.gov>]  
**Sent:** Wednesday, March 26, 2014 3:10 PM  
**To:** Peter Hughes  
**Subject:** RE: Hawaii Dairy Farms

Hi Peter,

Thanks for reaching out to me. I have been in contact with Sina in the past about the CAFO regulations. I am not attending the Region 3 hosted CAFO training (but a few of my coworkers are).

Is there a time next week (Wednes/Thursday) that works for you? It also might make sense to include Sina on the call since the state of Hawaii is the permitting authority.

Thanks,

Becky Mitschele